

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1401

Citations Affected: IC 2-5-1.5; IC 5-10.2-4-3; IC 33-34-8-1; IC 33-37; IC 33-38-5-8.2.

Synopsis: Public officer compensation. Establishes the public officers compensation advisory commission to make recommendations to the general assembly regarding the salaries to be paid to public officers. Provides that recommended increases in salaries may not exceed changes in the Indiana nonfarm income. Provides that for purposes of computing a retirement benefit for a person who is a member of the Indiana state teachers' retirement fund and who takes an unpaid leave of absence to serve in an elected position: (1) "annual compensation" includes the total amount that was not paid to the member but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position; and (2) the "average of the annual compensation" means the annual compensation for the one year of service in which the member's annual compensation was highest. Extends the health care adjustments made to executive branch employees to members of the judicial branch. Establishes a judicial insurance adjustment fee of \$1 to be collected in certain civil actions and in certain criminal, infraction, and ordinance violation actions. Provides that the costs of the health care adjustments for judicial branch members be paid from the judicial health adjustment fee. **(This conference committee report adds the provisions relating to health care adjustments for members of the judicial branch, establishes the judicial insurance adjustment fee, and corrects conflicts with SEA 263.)**

Effective: Upon passage; April 1, 2004; June 1, 2004; July 1, 2004.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1401 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 2-5-1.5 IS ADDED TO THE INDIANA CODE AS
- 3 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **Chapter 1.5. Public Officers Compensation Advisory**
- 6 **Commission**
- 7 **Sec. 1. As used in this chapter, "commission" refers to the**
- 8 **public officers compensation advisory commission established by**
- 9 **section 6 of this chapter.**
- 10 **Sec. 2. As used in this chapter, "growth rate" refers to the rate**
- 11 **of change in Indiana nonfarm income determined by the Bureau**
- 12 **of Economic Analysis of the United States Department of**
- 13 **Commerce.**
- 14 **Sec. 3. As used in this chapter, "political subdivision" has the**
- 15 **meaning set forth in IC 36-1-2-13.**
- 16 **Sec. 4. As used in this chapter, "public employee" refers to any**
- 17 **of the following:**

- (1) An employee of the state.
- (2) An employee of a political subdivision.
- (3) An employee of any other entity whose salary is paid in any part from funds derived from taxes imposed by the state or a political subdivision.

Sec. 5. As used in this chapter, "public officer" refers to any of the following:

- (1) The governor.
- (2) The lieutenant governor.
- (3) The secretary of state.
- (4) The auditor of state.
- (5) The treasurer of state.
- (6) The attorney general.
- (7) The clerk of the supreme court.
- (8) The state superintendent of public instruction.
- (9) A justice of the supreme court of Indiana.
- (10) A judge of the court of appeals of Indiana.
- (11) A judge of the Indiana tax court.
- (12) A judge of a circuit, superior, probate, or county court.
- (13) A member of the general assembly.

Sec. 6. There is established the public officers compensation advisory commission.

Sec. 7. (a) The commission consists of the following members:

- (1) Two (2) members appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.
- (2) Two (2) members appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.
- (3) Two (2) members appointed by the governor. The members appointed under this subdivision may not be members of the same political party.
- (4) Two (2) members appointed by the chief justice of the supreme court of Indiana. The members appointed under this subdivision may not be members of the same political party.
- (5) One (1) member appointed by the chief judge of the court of appeals of Indiana.

(b) The following may not be a commission member:

- (1) A public officer.
- (2) A public employee.
- (3) An individual who has a pecuniary interest in the salary of a public officer. For purposes of this subdivision, an individual has a pecuniary interest in the salary of a public officer if an increase in the salary of a public officer will result in an ascertainable increase in the income or net worth of the individual.

Sec. 8. (a) The term of a commission member begins on the

1 later of the following:

2 (1) July 1 after the member is appointed.

3 (2) The day the member accepts the member's appointment.

4 (b) The term of a commission member expires on July 1 of the
5 fourth year after the year the member's term begins.

6 (c) A member may be reappointed to serve a new term.

7 Sec. 9. (a) If there is a vacancy on the commission, the public
8 officer who appointed the member whose position is vacant shall
9 appoint an individual to fill the vacancy.

10 (b) The member appointed under this section shall fill the
11 vacancy for the remainder of the unexpired term.

12 Sec. 10. (a) Before July 1 of each odd numbered year, the
13 chairman of the legislative council shall appoint one (1) member
14 to be chair of the commission.

15 (b) The member appointed as chair of the commission serves as
16 chair beginning July 1 after appointment.

17 (c) A member of the commission may be reappointed as chair of
18 the commission.

19 Sec. 11. Five (5) commission members constitute a quorum. The
20 affirmative votes of at least five (5) commission members are
21 necessary for the commission to take official action other than to
22 adjourn or to meet to hear reports or testimony.

23 Sec. 12. The commission shall meet at the call of the chair and
24 at other times as the commission considers necessary.

25 Sec. 13. Each member of the commission is entitled to the
26 following:

27 (1) The salary per diem provided under IC 4-10-11-2.1(b).

28 (2) Reimbursement for traveling expenses as provided under
29 IC 4-13-1-4.

30 (3) Other expenses actually incurred in connection with the
31 member's duties as provided in the state policies and
32 procedures established by the Indiana department of
33 administration and approved by the budget agency.

34 Sec. 14. The legislative services agency shall provide
35 administrative support for the commission. At the request of the
36 legislative services agency, the state personnel department or the
37 Indiana judicial center established by IC 33-38-9-4 shall assign
38 staff to provide research and other support to assist the legislative
39 services agency in providing administrative support to the
40 commission.

41 Sec. 15. The legislative services agency may contract with
42 consultants on behalf of the commission as the commission
43 considers necessary to implement this chapter.

44 Sec. 16. Except as otherwise provided by this chapter, the
45 commission is subject to the rules of the legislative council.

46 Sec. 17. The commission shall make reports to the general
47 assembly as required by this chapter or by the legislative council.

The reports to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 18. The commission shall meet at least one (1) time not later than July 1 of each even-numbered year to do the following:

(1) For each public officer listed in section 5 of this chapter, determine the most recent year that the public officer received a salary increase.

(2) Receive information relating to the salaries of public officers.

(3) Consider recommendations for suitable salaries for public officers.

(4) Take testimony relating to the salaries of public officers.

Sec. 19. (a) Not later than September 1 of each even-numbered year, the commission shall make written recommendations to the:

(1) legislative council; and

(2) budget committee;

concerning suitable salaries for public officers. The recommendations to the legislative council must be in an electronic format under IC 5-14-6.

(b) When making recommendations, the commission shall make a separate recommendation, including a recommendation for no adjustment of salary, for each separate public officer listed in section 5 of this chapter.

(c) The commission may not recommend an increase in the salary of a public officer to an amount that exceeds the salary the public officer would receive if the salary of the public officer increased each year since the most recent year the public officer received a salary increase by the growth rate for each respective year.

Sec. 20. For purposes of this chapter, a health care adjustment under IC 33-38-5-8.2 is not considered part of the salary of a public officer.

Sec. 21. A commission recommendation does not take effect unless enacted by the general assembly.

Sec. 22. There is annually appropriated to the legislative services agency from the state general fund money necessary for the operation of the commission.

Sec. 23. Notwithstanding IC 1-1-1-8, the provisions of this chapter are not severable.

SECTION 2. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2004]: Sec. 3. (a) Except as provided in subsection ~~(c)~~, (f), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the twenty (20) calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the twenty (20) calendar

quarters, the nonteacher member must have performed service throughout the calendar quarter. All twenty (20) calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) **This subsection does not apply to a teacher member described in subsection (c).** In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the five (5) years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the five (5) years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The five (5) years do not have to be continuous.

(c) **This subsection applies to a member of the Indiana state teachers' retirement fund who serves in an elected position for which the member takes an unpaid leave of absence. In computing the retirement benefit for a teacher member described in this subsection for years of service to which IC 21-6.1-5-7.5 does not apply, "average of the annual compensation" means the annual compensation for the one (1) year of service before retirement in which the member's annual compensation was highest. In order for a year to be used, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service.**

(d) Subject to IC 5-10.2-2-1.5 "annual compensation" means:

(1) the basic salary earned by and paid to the member plus the amount that would have been part of that salary but for:

~~(A)~~ (A) the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

~~(B)~~ (B) the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; **and**

(2) **in the case of a member described in subsection (c) and for years of service to which IC 21-6.1-5-7.5 does not apply, the basic salary that was not paid during the year but would have been paid to the member during the year under the member's employment contracts if the member had not taken any unpaid leave of absence to serve in an elected position.**

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any

1 year.

2 ~~(d)~~ (e) Compensation of no more than two thousand dollars (\$2,000)
3 received from the employer in contemplation of the member's
4 retirement, including severance pay, termination pay, retirement bonus,
5 or commutation of unused sick leave or personal leave, may be included
6 in the total annual compensation from which the average of the annual
7 compensation is determined, if it is received:

8 (1) before the member ceases service; or

9 (2) within twelve (12) months after the member ceases service.

10 ~~(e)~~ (f) This section applies to a member of the general assembly:

11 (1) who is a participant in the legislators' retirement system
12 established under IC 2-3.5;

13 (2) who is also a member of the public employees' retirement fund
14 or the state teachers' retirement fund; and

15 (3) whose years of service in the general assembly may not be
16 considered in determining the average of the annual compensation
17 under this section, as provided in IC 2-3.5-1-2(b)(2) or
18 IC 2-3.5-3-1(c).

19 The board shall use the board's actuarial salary increase assumption to
20 project the salary for any previous year needed to determine the average
21 of the annual compensation.

22 SECTION 3. IC 33-34-8-1, AS ADDED BY SEA 263-2004,
23 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2004]: Sec. 1. (a) The following fees and costs apply to cases
25 in the small claims court:

26 (1) A township docket fee of five dollars (\$5) plus forty-five
27 percent (45%) of the infraction or ordinance violation costs fee
28 under IC 33-37-4-2.

29 (2) The bailiff's service of process by registered or certified mail
30 fee of thirteen dollars (\$13) for each service.

31 (3) The cost for the personal service of process by the bailiff or
32 other process server of thirteen dollars (\$13) for each service.

33 (4) Witness fees, if any, in the amount provided by IC 33-37-10-3
34 to be taxed and charged in the circuit court.

35 (5) A redocketing fee, if any, of five dollars (\$5).

36 (6) A document storage fee under IC 33-37-5-20.

37 (7) An automated record keeping fee under IC 33-37-5-21.

38 (8) A late fee, if any, under IC 33-37-5-22.

39 **(9) A judicial insurance adjustment fee under IC 33-37-5-25.**

40 The docket fee and the cost for the initial service of process shall be
41 paid at the institution of a case. The cost of service after the initial
42 service shall be assessed and paid after service has been made. The cost
43 of witness fees shall be paid before the witnesses are called.

44 (b) If the amount of the township docket fee computed under
45 subsection (a)(1) is not equal to a whole number, the amount shall be
46 rounded to the next highest whole number.

47 SECTION 4. IC 33-37-4-1, AS ADDED BY SEA 263-2004,
48 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
49 JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony
50 conviction under IC 35-50-2 or a misdemeanor conviction under

IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A marijuana eradication program fee (IC 33-37-5-7).
- (3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
- (4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
- (5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).
- (6) An alcohol and drug countermeasures fee (IC 33-37-5-10).
- (7) A child abuse prevention fee (IC 33-37-5-12).
- (8) A domestic violence prevention and treatment fee (IC 33-37-5-13).
- (9) A highway work zone fee (IC 33-37-5-14).
- (10) A deferred prosecution fee (IC 33-37-5-17).
- (11) A document storage fee (IC 33-37-5-20).
- (12) An automated record keeping fee (IC 33-37-5-21).
- (13) A late payment fee (IC 33-37-5-22).
- (14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) The clerk shall apply the partial payment to general court costs.
- (2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the

appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 5. IC 33-37-4-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars (\$52); and

(2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 6. IC 33-37-4-3, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

(1) IC 31-34 (children in need of services).

(2) IC 31-37 (delinquent children).

(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(6) A document storage fee (IC 33-37-5-20).

(7) An automated record keeping fee (IC 33-37-5-21).

(8) A late payment fee (IC 33-37-5-22).

(9) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).

(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user

1 fee fund established under IC 33-37-8.

2 SECTION 7. IC 33-37-4-4, AS ADDED BY SEA 263-2004,
3 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2004]: Sec. 4. (a) The clerk shall collect a civil costs fee of
5 one hundred dollars (\$100) from a party filing a civil action. This
6 subsection does not apply to the following civil actions:

- 7 (1) Proceedings to enforce a statute defining an infraction under
- 8 IC 34-28-5 (or IC 34-4-32 before its repeal).
- 9 (2) Proceedings to enforce an ordinance under IC 34-28-5 (or
- 10 IC 34-4-32 before its repeal).
- 11 (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- 12 (4) Proceedings in paternity under IC 31-14.
- 13 (5) Proceedings in small claims court under IC 33-34.
- 14 (6) Proceedings in actions described in section 7 of this chapter.

15 (b) In addition to the civil costs fee collected under this section, the
16 clerk shall collect the following fees, if they are required under
17 IC 33-37-5:

- 18 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 19 IC 33-37-5-4).
- 20 (2) A support and maintenance fee (IC 33-37-5-6).
- 21 (3) A document storage fee (IC 33-37-5-20).
- 22 (4) An automated record keeping fee (IC 33-37-5-21).

23 **(5) A judicial insurance adjustment fee under IC 33-37-5-25.**

24 SECTION 8. IC 33-37-4-5, AS ADDED BY SEA 263-2004,
25 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2004]: Sec. 5. (a) For each small claims action the clerk shall
27 collect from the party filing the action a small claims costs fee of
28 thirty-five dollars (\$35). However, a clerk may not collect a small
29 claims costs fee for a small claims action filed by or on behalf of the
30 attorney general.

31 (b) In addition to a small claims costs fee collected under this section,
32 the clerk shall collect the following fees, if they are required under
33 IC 33-37-5:

- 34 (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or
- 35 IC 33-37-5-4).
- 36 (2) A document storage fee (IC 33-37-5-20).
- 37 (3) An automated record keeping fee (IC 33-37-5-21).

38 **(4) A judicial insurance adjustment fee under IC 33-37-5-25.**

39 (c) This section expires July 1, 2005.

40 SECTION 9. IC 33-37-4-6, AS ADDED BY SEA 263-2004,
41 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2004]: Sec. 6. (a) For each small claims action, the clerk shall
43 collect from the party filing the action both of the following fees:

- 44 (1) A small claims costs fee of thirty-five dollars (\$35).
- 45 (2) A small claims service fee of five dollars (\$5) for each
- 46 defendant named or added in the small claims action.

47 However, a clerk may not collect a small claims costs fee or small
48 claims service fee for a small claims action filed by or on behalf of the
49 attorney general.

50 (b) In addition to a small claims costs fee and small claims service fee

collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) This section applies after June 30, 2005.

SECTION 10. IC 33-37-4-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars (\$120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).

(2) IC 29 (probate).

(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A judicial insurance adjustment fee under IC 33-37-5-25.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.

(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.

(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 11. IC 33-37-5-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) **This subsection does not apply to the following:**

(1) A criminal proceeding.

(2) A proceeding for an infraction violation.

(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-19-1-1, the clerk shall collect a judicial insurance adjustment fee of one dollar (\$1).

(b) In each action in which a person is:

(1) convicted of an offense;

(2) required to pay a pretrial diversion fee;

(3) found to have violated an infraction; or

(4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar (\$1).

SECTION 12. IC 33-37-7-1, AS ADDED BY SEA 263-2004,

SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-5(a) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established by IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed

by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The ~~county~~ clerk of a circuit court shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(h)~~ (i) This section expires July 1, 2005.

SECTION 13. IC 33-37-7-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the

auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The ~~county~~ clerk of a circuit court shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

⌘ (j) This section applies after June 30, 2005.

SECTION 14. IC 33-37-7-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

~~(g)~~ **(h)** This section expires July 1, 2005.

SECTION 15. IC 33-37-7-8, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

- 1 (3) IC 33-37-4-4(a) (civil costs fees).
- 2 (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- 3 (5) IC 33-37-5-17 (deferred prosecution fees).
- 4 (b) The city or town fiscal officer shall distribute monthly to the
- 5 county auditor as the county share twenty percent (20%) of the amount
- 6 of fees collected under the following:
- 7 (1) IC 33-37-4-1(a) (criminal costs fees).
- 8 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 9 (3) IC 33-37-4-4(a) (civil costs fees).
- 10 (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- 11 (5) IC 33-37-5-17 (deferred prosecution fees).
- 12 (c) The city or town fiscal officer shall retain twenty-five percent
- 13 (25%) as the city or town share of the fees collected under the
- 14 following:
- 15 (1) IC 33-37-4-1(a) (criminal costs fees).
- 16 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 17 (3) IC 33-37-4-4(a) (civil costs fees).
- 18 (4) IC 33-37-4-6(a)(1) (small claims costs fees).
- 19 (5) IC 33-37-5-17 (deferred prosecution fees).
- 20 (d) The clerk of a city or town court shall distribute semiannually to
- 21 the auditor of state for deposit in the state user fee fund established in
- 22 IC 33-37-9 the following:
- 23 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
- 24 interdiction, and corrections fees collected under
- 25 IC 33-37-4-1(b)(5).
- 26 (2) Twenty-five percent (25%) of the alcohol and drug
- 27 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 28 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 29 (3) One hundred percent (100%) of the highway work zone fees
- 30 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 31 (4) One hundred percent (100%) of the safe schools fee collected
- 32 under IC 33-37-5-18.
- 33 (5) One hundred percent (100%) of the automated record keeping
- 34 fee (IC 33-37-5-21).
- 35 (e) The clerk of a city or town court shall distribute monthly to the
- 36 county auditor the following:
- 37 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 38 interdiction, and corrections fees collected under
- 39 IC 33-37-4-1(b)(5).
- 40 (2) Seventy-five percent (75%) of the alcohol and drug
- 41 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 42 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 43 The county auditor shall deposit fees distributed by a clerk under this
- 44 subsection into the county drug free community fund established under
- 45 IC 5-2-11.
- 46 (f) The clerk of a city or town court shall distribute monthly to the
- 47 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
- 48 percent (100%) of the late payment fees collected under IC 33-37-5-22.
- 49 The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit
- 50 fees distributed by a clerk under this subsection in the city or town

1 general fund.

2 (g) The clerk of a city or town court shall semiannually
3 distribute to the auditor of state for deposit in the judicial branch
4 insurance adjustment account established by IC 33-38-5-8.2 one
5 hundred percent (100%) of the judicial insurance adjustment fee
6 collected under IC 33-37-5-25.

7 ~~(g)~~ (i) This section applies after June 30, 2005.

8 SECTION 16. IC 33-38-5-8.2 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL
10 1, 2004]: Sec. 8.2. (a) As used in this section, "account" refers to
11 the judicial branch health care adjustment account established by
12 subsection (d).

13 (b) As used in this section, "employees of the judicial branch"
14 includes the following:

15 (1) Each judge described in section 6 of this chapter.

16 (2) Each magistrate:

17 (A) described in section 7 of this chapter; and

18 (B) receiving a salary under IC 33-23-5-10.

19 (3) Each justice and judge described in section 8 of this
20 chapter.

21 (4) The judge described in IC 33-26.

22 (5) A prosecuting attorney whose entire salary is paid by the
23 state.

24 (c) Employees of the judicial branch are entitled to a health care
25 adjustment in any year that the governor provides a health care
26 adjustment to employees of the executive branch.

27 (d) The judicial branch insurance adjustment account within the
28 state general fund is established for the purpose of providing
29 health care adjustments under subsection (c). The account shall
30 be administered by the supreme court.

31 (e) The expenses of administering the account shall be paid from
32 money in the account.

33 (f) The treasurer of state shall invest the money in the account
34 not currently needed to meet the obligations of the account in the
35 same manner as other public money may be invested. Interest
36 that accrues from these investments shall be deposited in the
37 account.

38 (g) Money in the account at the end of a state fiscal year does
39 not revert to the state general fund.

40 (h) Money in the account is annually appropriated to the
41 supreme court for the purpose of this section.

42 (i) If the funds appropriated for compliance with this section are
43 insufficient, there is annually appropriated from the state general
44 fund sufficient funds to carry out the purpose of this section.

45 SECTION 17. [EFFECTIVE UPON PASSAGE] (a) The definitions
46 in IC 2-5-1.5, as added by this act, apply throughout this
47 SECTION.

1 (b) The appointing authorities of the commission members shall
 2 appoint the commission members, subject to IC 2-5-1.5, as added
 3 by this act, before July 1, 2004.

4 (c) The chairman of the legislative council shall appoint the
 5 commission chair, subject to IC 2-5-1.5, as added by this act,
 6 before July 1, 2004.

7 (d) Notwithstanding IC 2-5-1.5-18, as added by this act, the
 8 commission shall meet at least one (1) time not later than August
 9 1, 2004, to carry out the functions listed in IC 2-5-1.5-18, as added
 10 by this act.

11 (e) Not later than September 1, 2004, the commission shall
 12 make written recommendations to the:

13 (1) legislative council; and

14 (2) budget committee;

15 concerning suitable salaries for public officers. The
 16 recommendations to the legislative council must be in an
 17 electronic format under IC 5-14-6.

18 (f) For purposes of this SECTION, the health care adjustment
 19 provided by SECTION 19 of this act is not considered part of the
 20 salary of a public officer.

21 (g) Except as provided in this SECTION, IC 2-5-1.5, as added by
 22 this act applies to the commission's proceedings under this
 23 SECTION.

24 (h) The SECTION expires July 1, 2005.

25 SECTION 18. [EFFECTIVE JUNE 1, 2004] IC 5-10.2-4-3, as
 26 amended by this act, applies only to members of the Indiana state
 27 teachers' retirement fund who retire after May 31, 2004.

28 SECTION 19. [EFFECTIVE APRIL 1, 2004] (a) Employees of the
 29 judicial branch (as defined in IC 33-38-5-8.2, as added by this act)
 30 are entitled to a health care adjustment equal to the adjustment
 31 provided by the governor for state employees with respect to
 32 calendar years 2003 and 2004.

33 (b) Payment of the:

34 (1) one thousand ninety-two dollar (\$1,092) health care
 35 adjustment with respect to 2003 shall be included as a lump
 36 sum in the first pay period beginning after April 1, 2004; and

37 (2) eight hundred eighty-four (\$884) health care adjustment
 38 with respect to 2004 shall be prorated over the pay periods
 39 remaining in 2004 after April 1, 2004.

40 (c) Funds for compliance with this SECTION are appropriated to
 41 the supreme court from the judicial branch insurance adjustment
 42 account established by IC 33-38-5-8.2, as added by this act, for the
 43 biennium ending June 30, 2005.

44 (d) If the funds appropriated for compliance with this SECTION
 45 are insufficient, there is appropriated to the supreme court from
 46 the personal services/fringe benefits contingency fund for the
 47 biennium ending June 30, 2005, sufficient funds to carry out the

1 **purpose of this SECTION notwithstanding the appropriation made**
2 **to the state budget agency for the personal services/fringe**
3 **benefits contingency fund in P.L.224-2003, SECTION 3.**

4 **(e) This SECTION expires July 1, 2005.**

5 SECTION 20. [EFFECTIVE UPON PASSAGE] **Notwithstanding**
6 **IC 1-1-1-8, the provisions of this act are not severable.**

7 SECTION 21. **An emergency is declared for this act.**

(Reference is to EHB 1401 as reprinted February 25, 2004.)

Conference Committee Report
on
Engrossed House Bill 1401

Signed by:

Representative Kuzman
Chairperson

Senator Harrison

Representative Bosma

Senator Rogers

House Conferees

Senate Conferees